

Hand-Delivered

FILED
ASHEVILLE, N.C.

JUN 23 2021

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

Asheville, Division

Case No.

1:21 cv 166

(to be filled in by the Clerk's Office)

Jury Trial: (check one)



Yes



No

HEATHER KATHLEEN GUNN

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

BRANDON R. PADGETT - TROOPER

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Heather K. Gunn
 Address 139 Lakey Creek Road
Franklin NC 28734
City State Zip Code
 County Macon
 Telephone Number (828) 506-5522
 E-Mail Address hkgunn@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Brandon R. Padgett
 Job or Title (if known) North Carolina State Highway Patrol Trooper
 Address 2650 Governors Island
Bryson City NC 28713
(Graham County) State Zip Code
 County Trooper works in MACON COUNTY, NC
 Telephone Number (828) 488-2184
 E-Mail Address (if known) _____
☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name _____
 Job or Title (if known) _____
 Address _____

City State Zip Code
 County _____
 Telephone Number _____
 E-Mail Address (if known) _____
☐ Individual capacity ☐ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐

Federal officials (a *Bivens* claim)

☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Including but not limited to:

My 4th and 8th Amendment Federal Constitutional Rights being violated

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur? *In Macon County, NC. Events originally occurred on NC 28 (Bryson City Road) just North East of the Cowee Cherokee Indian Mound near SR 1355 (Carl Barrells Road) approximately milepost 33 across from Van Carter Road - (where there have been several accidents - in part due to run-off from Van Carter Road that the NC DOT refuses to fix)*
- B. What date and approximate time did the events giving rise to your claim(s) occur? *This is irresponsible of the NC DOT and should be fixed. Until there is a fatality; NO ONE ELSE IS HURT.*
June 23, 2018
Starting approximately at 6:50 PM
- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)
To start with: The Trooper threw face-down on the side of the road - un-necessarily, senselessly, un-professionally, incompetently, un-reasonably, + BRUTALLY. I suffered a black eye, scrapes, bruise, 2nd concussion! (See IV, Injuries etc) at the cruel hand of Trooper Brandon Padgett. After, the Trooper handcuffed me, while I was unconsciously forced to lay prone on my face, the Trooper drove his knee sadistically into my back pinning me to the ground, for nearly 15 minutes, while he pounded the pavement w/ my already injured face + while I begged for help + relief from the terrorizing pain + hurt he inflicted upon me. Tragically, minutes before the Trooper brutally attacked me, someone had just ran my jeep off the road + I had just narrowly survived a near-fatal crash. I had just suffered a quite visible head injury + concussion + other injuries. Shockingly, The trooper lied in his reports that I had not been injured in the wreck - thus he contradicted the EMT + Fire Dept. reports. (There were many witnesses) The Trooper LIED many, many times in his reports concerning details of the whole incident. The Trooper LIED under oath on Trial - in both D.C. + Superior courts - Shamelessly. Brandon Padgett should NOT BE A TROOPER. (There is more to be told...)

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

The Injuries I sustained from the Troopers Excessive Use of Force include but are not limited to:

Black Eye
Cuts + Scrapes on Face + Body
Bruises: Cheek
Swelling: Face
Breasts
Legs
BACK
2nd CONCUSSION
Bulging Disk (L4-L5)
Sciatica
Nerve Damage
Numbness
Loss of Sleep
+ Hearing (Faith + Trust etc)
Damaged Teeth

Un-necessary Duress
Distress
Frustration
Humiliation
Anxiety etc...

Treatment Received: Gauze Bandage for Head by Vol. Fire Dept after take down
Small Glasses Ice water w/ Paper Towel given kindly by Female Detention Officer.
NO ICE was Ever offered by Licensed EMT or Vol. Fire Dept or TROOPER

V. Relief

I have received many HOURS of Therapy by a licensed Physical Therapist + multiple Licensed Massage Therapists + a wonderful licensed Counselor, + a Physicians Assistant.

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

First and Foremost: I want the court to Order The Troopers' Personnel File To BE OPENED.
- The Trooper Must Be Held Accountable + Seriously Disciplined.

In the Best Interest of our Community, I would like The Court to Use All + whatever Authority It has to Order that the Trooper Be psychologically, mentally, + Intellectually Evaluated + Ordered to Receive Sensitivity Training, Anger Management Training, + plus whatever other Training, Evaluations, Counseling, the Court has Authority To Deem Appropriate. ALSO: I would like The Court to Use All + whatever Authority It has to See to it that there is a Serious + Thorough Investigation into the Trooper's Improper Behavior; this TROOPER should Ultimately BE FIRED or at least Forced to Resign.

So that the Trooper Never has the official Authority to Ever Harm Another Person Ever Again, then JUSTICE would Be Partially Served.

ALSO - I AM SEEKING Monetary Compensation. The Money Damages, that I am seeking include, but are not limited to:
My possible Future Attorney fees.

I am also seeking Any Punitive Damages the Court, in it's wisdom, Deems Appropriate.
Ultimately, I want the Court to Enforce my CIVIL RIGHTS + please Help me to restore some of my nearly complete loss in My Trust + FAITH in the Law Enforcement System + our Justice System.

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Thank You For Your Time + Consideration

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 6/23/21

Signature of Plaintiff

Printed Name of Plaintiff

Heather K. Gunn
Heather K. Gunn

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address